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ABSTRACT

This monograph offers information on basic procedures concerning disciplinary action in a continuous quality improvement setting at an institution of higher education. In particular it describes progressive discipline, the application of positive discipline in a series of steps that gradually increase in severity as an employee progresses through the steps. It describes why the disciplinary process is an important supervisory responsibility. It examines how various factors relate to effective handling of disciplinary matters. It advocates good communication to reduce or prevent further problems. It also provides basic guidelines to follow when conducting a disciplinary discussion and when documenting disciplinary action as it is taken. Section 1 is a glossary of terms. Section 2 discusses the nature of discipline. Section 3 describes policies and procedures related to discipline. Section 4 discusses supervisory responsibilities prior to taking disciplinary action. Section 5 reviews considerations prior to taking disciplinary action. Section 6 covers the progressive disciplinary process. Section 7 discusses taking disciplinary action. Extensive appendixes contain examples of warnings, letters, policies, and checklists. (JB)

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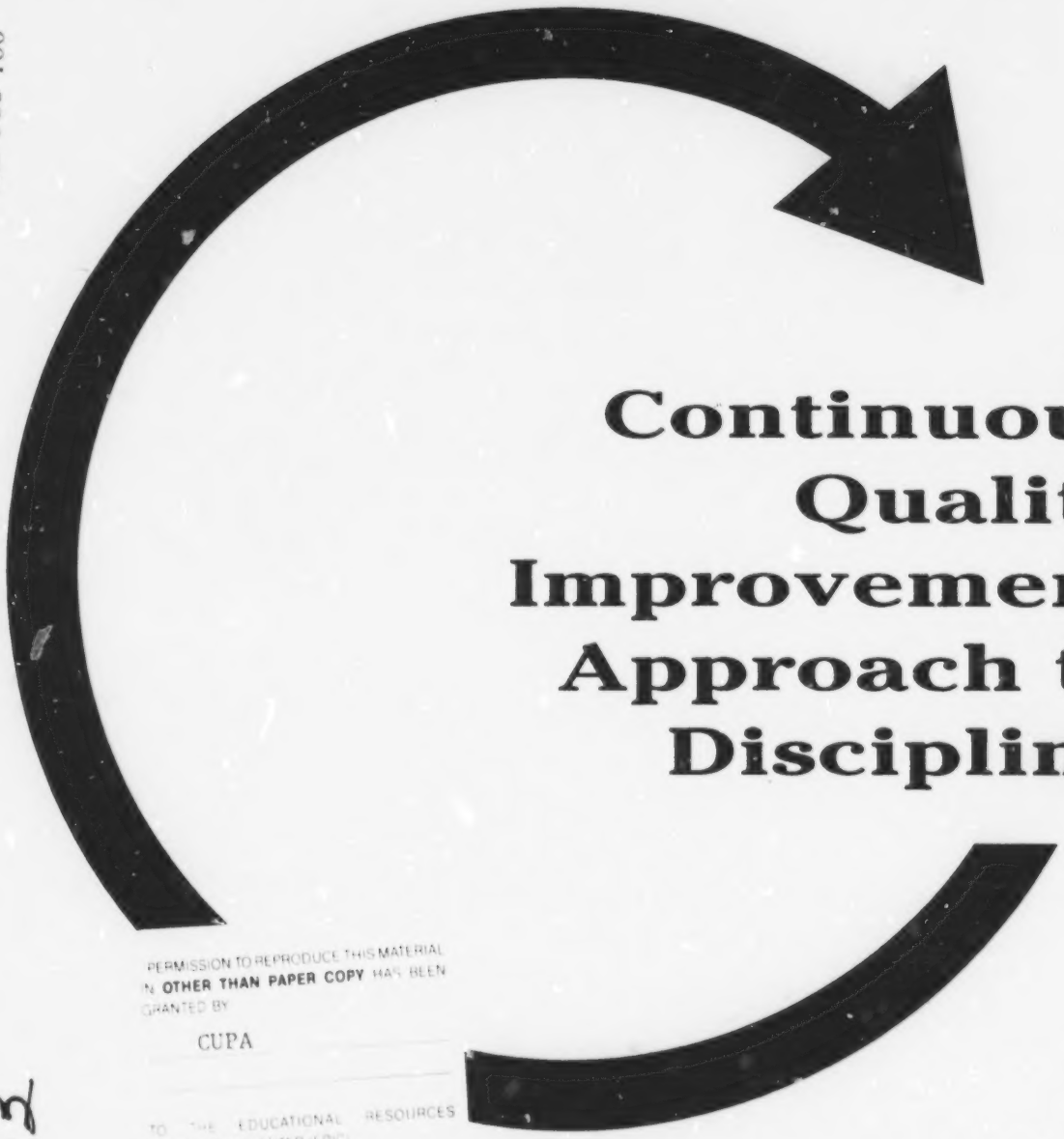

A Continuous Quality Improvement Approach to Discipline

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by

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College and University Personnel Association

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PREFACE

In the spirit of continuous quality improvement, discipline may be a necessary and crucial supervisory function. Supervisors need to be aware of when, why, and how disciplinary action should be taken. An understanding of the process will give you more confidence and make you more effective in administering disciplinary action. Discipline should be seen as a corrective action and an opportunity for improvement, instead of as a punishment of the worker.

This monograph was developed to share information regarding basic procedures concerning disciplinary action. In order for you to be able to discipline effectively, you must be aware of your college or university's policies, rules, regulations, and practices. You also need to be aware of what your responsibilities are in the disciplinary process. You should consult the handbooks and manuals within your institution, division, and in your Human Resources Office for specific information.

This monograph also describes why the disciplinary process is an important supervisory responsibility. Many related supervisory responsibilities influence effective discipline: establishing rules and standards of performance; communicating rules and standards; orienting and training employees; recognizing work-related problems; providing feedback; gathering facts; analyzing problems; coaching and counseling employees; applying the appropriate corrective action or actions; documenting actions; and following up on actions that have been taken. This monograph has been prepared to help you better understand how these factors relate to effective handling of disciplinary matters.

If problems can be discussed and resolved informally, the need to use progressive discipline may be avoided. Good communication skills can reduce or prevent further problems. Discussing a situation or incident with an employee does not necessarily indicate or require the commencement of progressive discipline.

Progressive discipline is not intended to be a substitute for formal performance appraisals. An employee's inability or unwillingness to maintain correct standards of performance should be addressed through the use of performance appraisal techniques. An employee's inability or unwillingness to maintain those standards ultimately may result in disciplinary action.

This monograph also is designed to provide you with basic guidelines to follow when conducting a disciplinary discussion and when documenting disciplinary action as it is taken. The disciplinary procedure does not end with the initial disciplinary action; it also involves your follow-up in helping to ensure that the problem is corrected. Consequences of ineffective discipline may include poor working relationships, unresolved problems, and grievances. This monograph has been prepared to help you understand how to handle discipline effectively and to understand why it is important to use effective methods.

Note: This monograph is intended to provide information and guidance. It is not intended, nor should it be interpreted, to bestow any additional or new rights to employees of a college or university. All situations discussed are examples and are not intended to be all-inclusive or to provide an absolute rule. While references may be made to legal principles and requirements, the monograph is not intended to provide legal advice and should never be substituted for consultation with legal counsel.

Good supervision comes more from common sense and reasonable behavior than specialized technique or reliance on adhering to regulations. Treat your employees as you would like your supervisor to treat you, and you will find your job becoming easier and more enjoyable.

—Nicole A. Norian, P.H.R. and Paul J. Michaud, M.S.
May, 1995

About the Authors

Nicole A. Norian, P.H.R., is Director of Human Resources at Central Missouri State University. Before that, she was Director of Human Resources at Emporia State University in Emporia, Kansas. Norian also has worked in the human resources departments at Marshall University and Drake University. She has been an active member of CUPA since 1985. Most recently, she has held the post of Chair for the Great Plains Chapter, Director of Professional Development for the Midwest Region Board, and has participated in, presented at, and helped organize Midwest Region Conferences for several years. Norian has a master's degree in Counseling and Personnel Services from Drake University and received her bachelor's degree in psychology from Iowa State University.

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Communicating Continuous Quality Improvement in the Workplace

Orient and train the employee.

↓ ↓ ↓

Establish, communicate, and enforce rules, policies, and procedures.

↓ ↓ ↓

Identify and solve problems; provide feedback.

↓ ↓ ↓

Coach and counsel the employee; provide feedback.

↓ ↓ ↓

Consider appropriate factors prior to taking disciplinary action.

↓ ↓ ↓

Opportunity to Appeal ← ← ← Oral Warning → → → Follow-up
(document properly)

↓ ↓ ↓

Opportunity to Appeal ← ← ← Written Warning → → → Follow-up
(document properly)

↓ ↓ ↓

Appeals Process ← ← ← Suspension → → → Follow-up
(document properly)

↓ ↓ ↓

Appeals Process ← ← ← Termination
(document properly)

↓ ↓ ↓

External Appeals Hearing

SECTION I

GLOSSARY OF TERMS

It is important for human resources professionals to understand the terms used when discussing discipline to fully understand the process. These terms will be referred to frequently when discussing policies, procedures, and the supervisor's responsibility in the disciplinary process.

Behavior—Actions of a person in a given situation.

Disciplinary action—Invoking a corrective action against an employee who fails to meet established standards.

Feedback—Communication that tells an employee how he or she is performing on the job.

Just cause—Reason for disciplinary action as established by rules and standards of conduct.

Oral warning—Correction in the form of an oral reprimand, usually used for a first or minor offense.

Positive discipline—A willing adherence to necessary rules and regulations by the supervisor. The objective is to help the violator and discourage violations by other workers; it is educational and corrective in nature.

Progressive discipline—The application of positive discipline in a series of steps that gradually increase in severity as an employee progresses through the steps.

Rules—Specific written statements of what employees can and cannot do. Violations of rules can result in disciplinary action.

Standards—Behavior expected of an employee regarding job performance and personal conduct while on the job.

Summary discharge—Termination that does not require advance warning because of violation of rules, endangerment of life or property, or dishonesty.

Supervisor—Any individual who normally performs different work from his or her subordinates and who has authority, given by the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, and discipline other employees and address their grievances.

Suspension—Disciplinary layoff resulting in loss of pay for a period of time (generally not to exceed 30 days).

Termination—Final disciplinary action that permanently removes the employee from the work environment (also called "dismissal" or "discharge").

Written warning—First formal stage of the disciplinary process. It is a written statement that identifies what the employee did, when it happened, what is expected in the future, and subsequent consequences if violations continue. This document becomes part of the employee's official personnel record.

SECTION

II

What Is Discipline?

Discipline is a method of supervisory control that helps employees meet expectations. Discipline corrects individual faults and behavior, and attempts to prevent further infractions. Discipline is not *punishment for* wrongdoing, but *correction of* wrongdoing.

Discipline becomes necessary when supervisory expectations are not met. In order for a work environment to operate effectively, employees must know standards of performance and supervisors must enforce them. When employees fail to meet work standards, the disciplinary process provides supervisors with a procedure to deal with specific problems. Discipline helps ensure that employees will perform quality work. It clarifies the difference between acceptable and unacceptable performance. It is important to remember that not all performance problems are disciplinary problems; however, all disciplinary problems should be addressed on performance evaluations as well as through the progressive discipline process. Discipline provides supervisors with a way to deal with unsatisfactory conduct.

Discipline helps protect the rights of all employees. Other employees often are affected by a rule breaker's actions. Morale may lower, or others also may try to break the rules. The person violating the rule or standard can be helped to understand why the rule is necessary. After being corrected, an employee more likely will be able to control his or her own behavior and not break the rule again. The employee should be informed how he or she can improve to meet the standards.

Supervisors must use disciplinary action consistently and reasonably when problems exist. If the supervisor fails to act consistently or with firmness, his or her position is diminished. Although a supervisor may believe that the disciplinary process is distasteful, it is a necessary part of his or her job. A supervisor should take a positive, corrective attitude toward discipline. Appropriate progressive disciplinary action can help the process proceed more smoothly and aid in the resolution of the problem. Knowledge of policies and procedures and supervisory rights and responsibilities also will make the supervisor more confident to take disciplinary action.

SECTION III

Policies and Procedures Related to Discipline

Employees may be disciplined for just cause. Supervisors have the responsibility to discipline employees in a consistent manner and invoke disciplinary action whenever employees do not follow the rules. If employees believe they have been disciplined unjustly, they may use the appropriate grievance procedure to present their case. Employees generally are entitled to have representation during grievance procedures.

General Policy

All disciplinary action should be:

- reasonable,
- timely,
- related in severity to the seriousness of the offense.

Employees should be warned properly that past behavior has been unacceptable and advised of the desirable behavior that is expected. After the employee has been notified of the supervisor's expectations, proper warning normally should follow these progressive steps:

- first infraction: oral warning;
- second infraction: written warning;
- third infraction: suspension;
- fourth infraction: dismissal.

Depending on the severity of the offense, the supervisor may issue a written warning or suspension on the first infraction. (See Appendix J for an extensive listing of offenses and possible consequences.) Specific procedures, and the guidelines for following them, will be discussed in detail in later sections of this monograph. First, however, it is important to consider other supervisory responsibilities that have an effect on employee performance. If a supervisor carries out these responsibilities effectively, problems that arise can be dealt with successfully and the need for further, more severe disciplinary action may be avoided.

The Role of the Human Resources Office

It is the supervisor's responsibility to discuss the incident with the employee and other appropriate parties to gather facts and determine the extent of disciplinary action required. After this discussion, the supervisor should contact human resources.

Most institutions require that the Office of Human Resources be notified when a supervisor plans to take disciplinary action. The role of human resources is to facilitate consultation and conciliation of problems that occur in the workplace.

Supervisors are encouraged to have human resources review oral and written warning documentation prior to warning the employee. If a situation may result in suspension or termination, the supervisor should discuss the incident with human resources immediately after it occurs.

SECTION IV

Supervisory Responsibilities Prior to Taking Disciplinary Action

Discipline is only one of many responsibilities that supervisors have. They have many other responsibilities related to the planning, organizing, leading, and controlling of their divisions. Disciplinary effectiveness, however, depends on the supervisor's success in carrying out his or her overall day-to-day supervisory responsibilities. The chances of discipline problems greatly increase when supervisors do not take their other day-to-day responsibilities seriously. In the event that disciplinary actions are aggrieved by employees, many questions may be raised concerning the extent to which the supervisor has carried out his or her responsibilities in the following areas: orienting and training employees; establishing, communicating, and enforcing rules, policies, and procedures; identifying and solving problems and providing feedback; and coaching and counseling employees.

Orienting and Training Employees

Employee orientation, probably one of the most important aspects of preventive discipline, is a supervisory responsibility that has a great effect on an employee's performance because it:

- builds the foundation for good relations with the employee;
- gives the employee a favorable first impression of the entire work environment;
- enables the employee to get a good start and promotes a greater degree of acceptance of the employee within the work group;
- develops a spirit of cooperation and team work;
- promotes a higher level of morale, efficiency, and productivity, which contributes to improved communications.

Orientation matters that relate directly to preventive discipline are to:

- make sure employees know their duties and responsibilities;
- check that employees understand all rules and consequences of rule violations;
- provide employees with an opportunity to raise questions and encourage their comments and suggestions;

- communicate rule changes and rationale prior to enforcing them;
- analyze why problems occur and try to eliminate the cause;
- use problem-solving discussions with the employee involved to identify solutions.

When employees know the rules and regulations, and understand what is expected of them, they more likely accept personal responsibility to control their own behavior.

Orientation does not end with the training of new employees; it is a continual process because the work environment constantly changes—new rules, regulations, policies, practices, systems, and procedures need to be communicated to long-term employees as well as new ones.

Establishing, Communicating, and Enforcing Rules, Policies, and Procedures

Good human resources practices require some basic work rules that have some bearing on an employee's ability to be effective in his or her position. Work rules are not intended to limit the rights of employees, but rather to define those rights so the institutional mission can be accomplished in an orderly and equitable manner. Work rules regulate the personal conduct of employees. There are many kinds of rules from different sources—governmental agencies (both federal and state), governing boards, school administration, divisional administration, and the supervisor.

School rules

Most school rules are covered in an employee handbook. Supervisors should be familiar with those rules that pertain to the relationship between a supervisor (as a representative of the college or university) and the employees supervised. The employee has the most direct contact with his or her supervisor and, therefore, in the eyes of the employee, that supervisor represents college or university administration and management. Disciplinary responsibilities will be much easier if the supervisor:

- has a thorough knowledge of the rules;
- understands the reasons for having each of the rules;
- makes sure that employees know and understand the rules or at least are knowledgeable of where the rules are located.

Divisional rules

Divisional rules also may be developed to meet individual division needs. In developing divisional rules, particular care should be taken to ensure that:

- all rules and standards are reasonable and legitimate;
- all rules are communicated to all employees;
- all rules are clear and understandable;
- all rules are reviewed periodically for appropriateness;
- all rules are enforceable;
- all rules are applied consistently;
- consequences of rule violations are made clear;
- all rules are shared with the Office of Human Resources;
- no rules conflict with school-wide rules.

Violation of rules

Whenever rule violations occur, disciplinary action should be taken. This action is a supervisory responsibility that requires good judgment, tact, common sense, and fairness. Frequently, an employee's resentment of disciplinary action is not so much over the disciplinary action *as the way the disciplinary action was handled.* Prior to taking disciplinary action, supervisors should:

- administer the rules fairly and uniformly for all employees;
- enforce all rules;
- apply all rules consistently;
- determine which rule was violated;
- ensure that the rule is in writing and has been communicated previously.

In enforcing rules, it may be helpful to keep four factors in mind:

1. ***Prior knowledge***. Employees should have prior knowledge and understanding of rules and disciplinary actions.
2. ***Immediacy***. Discipline should quickly follow the offense.
3. ***Impersonality***. Discipline should be administered due to undesirable behavior without regard to who the violator is.
4. ***Consistency***. Employees should all be treated equally and fairly when standards are not met or rules are violated.

Honest and consistent application of the rules is vital to good employee relations. When a supervisor is inconsistent in applying the rules, employees may have a valid grievance. On the other hand, when supervisors fail to enforce the rules, the rules have little value and chaos may reign. *Isolated minor rule violations generally can be handled successfully through a frank discussion in which the supervisor attempts to help the employee understand the existence of the rule and the importance for all employees to follow the rule.*

Identifying and Solving Problems and Providing Feedback

Early identification of performance problems can postpone—and sometimes eliminate—the necessity to take disciplinary actions, perhaps at a time when it is too late to find a solution. The following five-step problem-solving approach may help supervisors handle performance problems.

Step 1: Identify the performance-related action

- Develop a careful definition of the problem;
- Identify specific observable and measurable actions;
- Avoid subjective actions related to moods, attitudes, etc.;
- Focus on the effect of the action on the work:
  —work not completed
  —work not finished on time
  —work not completed properly
  —problems caused to others
- Identify why the action has a critical effect on work.

Step 2: Measure the action

- Identify any assumptions about a given situation;
- Note how often and when the action occurs;
- Compare the facts against any assumptions;
- Gather facts from existing records;
- Use common sense—do not "look over one's shoulder";
- Keep appropriate records for documentation purposes—include positive as well as negative comments.

Step 3: Analyze the actions and the facts

- Identify the causes as well as the effects of actions;
- Identify if something is preventing the desired action:
  - —inappropriate equipment, tools, or work aids
  - —policies or procedures that hamper (i.e., lack of time, complicated procedures, confusion over interpretations, conflicting demands)
- Identify if the employee has enough knowledge about expectations:
  - —about "why" the action is needed
  - —about the importance of his or her action
  - —about "how" he or she is to act or perform
  - —about whether he or she has ever been told that actions are not acceptable
- Identify if actions are related to "built-in" problems:
  - —assignment too difficult for one person
  - —assignment so disagreeable that it is avoided
  - —no rewards or sense of satisfaction from assignment related to the action.

Step 4: Develop a plan to improve or maintain desired action

- Let employee know performance is unsatisfactory;
- Let employee know what he or she is supposed to do;
- Attempt to remove obstacles that are beyond employee's control;
- Train employee how to perform and provide supervised practice;
- Make sure consequences—immediate correction, communication, and problem solving—follow negative performance;
- Consider alternative assignments or transfers;
- Ignore some actions that are not important if the work is not critically affected;
- Do not use punitive approaches—they are usually temporary and seldom effective, creating hostility and ill feelings between the supervisor and employee. Actions should be corrective in nature.

Step 5: Evaluate for performance improvement and follow-up

- Take note of what changes occurred;
- Determine effectiveness of the improvement plan;
- Provide feedback about observations to the employee;
- Let him or her know whether any improvement occurs;
- Give further consideration to alternative approaches.

General Guidelines for Conducting the Problem-Solving Discussion

1. Encourage the employee's discussion of his or her problems, concerns, and comments. Obtain the employee's view of the situation.
2. Be *constructive and supportive* when discussing the employee's job performance and performance expectations.
3. Demonstrate an interest in the *problems to be solved*, not "what the employee did wrong."
4. Strive to obtain *mutual discussion and understanding* of performance-related matters.
5. Seek "team" problem-solving approaches to performance problems.

Communication Tools for Obtaining Feedback

1. ***Discuss the employee's concerns.*** A supervisor's personal experiences and successes do little to contribute toward a motivated employee.
2. ***Talk about specific factual matters.*** Refine generalities into more concrete facts or feelings. Clarify words that have multiple meanings.
3. ***Restrain from becoming emotional.*** A supervisor's anger, defensiveness, and resentment only create additional problems. By remaining calm, unaffected, and open to what is said, the supervisor provides an opportunity to "get to the bottom" of the matter by dealing with the employee's feelings rather than his or her own.
4. ***Pay attention to what the employee does not say.*** There may be feelings, attitudes, and motives that would be helpful to discuss.
5. ***Use questions that help bring out what is on the employee's mind.*** For example, "Are there duties and responsibilities that could be more adequately defined?"; "Do you feel that your work and abilities should be more appreciated?"; "Are there areas in which you feel you should be better informed or consulted?"; "How free do you feel to talk things over with me?"
6. ***Be an active listener and encourage the employee to talk.*** Invite opinions and viewpoints. Demonstrate an understanding of what is said. Listen sincerely. Ask for further explanations ("Can you tell me more about that?"), but do not cross-examine. Avoid leading or loaded questions ("Don't you think you should..."). Repeat or rephrase whatever the employee has said in a question format in order to further encourage explanation of the situation or feelings ("You say it used to be different to work here?"). Turn the employee's questions back to him or her to obtain the employee's views about a problem area first ("What's your reaction to...?" or "What's your opinion about that?"). Summarize what the employee says in order to make sure there is complete understanding of the situation. Don't assume! Give the employee an opportunity to make additions or corrections.
7. ***Avoid "famous last words."*** The following are sure-fire conversation stoppers and barriers to effective discussions: "If I were you"; "This is what I want you to do."; "I told you so!"; "I think you ought to"; "Fine, but."
8. ***Observe the "don'ts."*** Don't argue. Don't let the employee's emotions affect the meeting.

9. ***Close the discussion on a positive note***. Review important points discussed and agreed on. Encourage the employee to put them in his or her own words. Try to leave the employee with more will to work than he or she originally had. Assure the employee that the "door is open" to talk whenever it would be helpful. Close on a sincere, cordial note.

Coaching and Counseling Employees

Even though supervisors may be effective in handling the responsibilities that have been discussed previously, there may be times when coaching and counseling could prevent the need for disciplinary action. When performance problems still persist, the following guidelines may be helpful in coaching an employee toward improved performance:

Steps of coaching technique

- Get his or her agreement that a problem exists;
- Discuss alternative solutions together;
- Agree on action to be taken to solve problem;
- Follow up to measure results;
- Recognize any achievement when it occurs.[1]

Counseling the troubled employee

During the problem-identification and problem-solving process, supervisors may find that there are no job-related causes of performance problems and/or work habit actions. Although supervisors are not expected (nor do they necessarily have the training) to assist employees in resolving serious personal problems that affect the employee's job performance, supervisors can perform an important function by helping employees to recognize the effects of personal problems on job performance. A counseling approach can benefit both the work unit and the employee when the problem can be resolved.

Some cautions

- Do not try to diagnose!
- Do not accuse!
- Do not be "taken in"!
- Do not attempt to solve his or her problem!
- Do not argue!

Supervisors should only be concerned about job performance facts

If a supervisor suspects an employee's work is being affected adversely by personal problems, the supervisor should obtain additional assistance through the Office of Human Resources or the institution's employee assistance program (EAP).

The following guidelines may help supervisors handle discussions about personal or health-related problems:

- meet with the employee and state concern for him or her as an individual and as an employee;
- review performance-related problems and previous agreements for correcting performance problems;

- stress that failure to correct the problem will result in disciplinary action and could lead to termination;
- ask the employee for an explanation of why his or her performance has not improved;
- inform the employee of the availability of professionals who can help him or her overcome any personal problems that may affect performance;
- offer to schedule an appointment for the employee with the Office of Human Resources or the institution's EAP;
- indicate an expectation that the employee will seek professional help and resolve the problem;
- schedule a meeting with the employee to discuss the employee's job-related performance in two weeks.

> Supervisors fill many roles within the college or university. Among them is human resource[s] manager. To be a good manager of people, a supervisor must be able to recognize a troubled employee whose personal problems may be interfering with work performance. When this recognition is followed by a supervisor-initiated discussion with the employee...the supervisor will have taken concrete action in dealing with the cause of deteriorating employee performance.[2]

These preventive measures may eliminate the subsequent need for disciplinary action. **Remember: deal with performance facts, not personal assumptions!**

SECTION V

Considerations Prior to Taking Disciplinary Action

Knowledge of policies and responsibilities and effective day-to-day supervision helps ensure that any necessary subsequent discipline is handled appropriately. The supervisor who is fair, firm, concerned in all relationships, and communicates with employees probably will have few discipline problems. Many human resources problems result when supervisors delay dealing with discipline problems, and then face a problem hastily and emotionally after it has become critical. When appropriate policies and practices are not followed, ineffective discipline can often result.

Consequences of Ineffective Discipline

The following circumstances can occur when discipline is not handled effectively and the employee believes he or she has been treated unjustly:

- an increased number of grievances, possibly going all the way to arbitration, which is costly and time consuming. Employees generally have the right to appeal disciplinary action through grievance procedures (See Appendix I.);
- an increase in the number of Title VII discrimination charges if a protected minority group member is involved, which also is costly and time consuming;
- an increase in the hostility between employees and supervisors or between a union and the college or university if a collective bargaining unit employee is involved. This increase may result in a loss of respect for the supervisor, an increase in the amount of turmoil, and a decrease in employee morale, job satisfaction, and motivation.

When a disciplinary action is aggrieved, the supervisor and/or management may have to explain their actions. Grievances usually are filed to contest whether "just cause" was present or if the severity of the disciplinary action was appropriate. When a supervisor decides on disciplinary action, it is important for him or her to take into consideration the seriousness of the offense, the past record of the employee, the lapse of time since the last disciplinary action, and the divisional practice in dealing with previous cases related to discipline.

To demonstrate "just cause," a supervisor relies on the facts obtained at the time of

the incident and the information documented. *Record keeping is important.* Arbitration decisions on disciplinary cases vary depending on the type of case. Arbitrators generally look to see that appropriate progressive discipline was used.

The best way to avoid grievances over disciplinary action is to be sincere, frank, fair, and equitable in dealing with the problem in an attempt to help the employee improve his or her performance. The following section may help supervisors determine the various factors that need to be considered when taking disciplinary action.

Factors to Consider

The following checklist is designed to help the disciplinarian arrive at corrective measures that are readily defensible in the opinion of the employee, the employee's coworkers, the employee's representative, the supervisor, the administration, and the public. All disciplinary action must be in accordance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and all institutional policies.

Have I Administered and Enforced the Rules Appropriately?

1.	Is the rule that has been violated published?	❒ Yes	❒ No
2.	Is the rule posted on division bulletin boards?	❒ Yes	❒ No
3.	Did the employee ever receive a personal copy of the rule that he or she violated?	❒ Yes	❒ No
4.	Is the rule stated in easy-to-understand wording?	❒ Yes	❒ No
5.	Is the violated rule or order reasonably related to the orderly, efficient, and safe operation of the division?	❒ Yes	❒ No
6.	If other employees have violated the same rule or order, did they also receive the same disciplinary action that you are about to take against this employee?	❒ Yes	❒ No
7.	Does the division maintain factual records on all employees in violation of this rule?	❒ Yes	❒ No
8.	Does this employee have the worst record of all employees in violation of this rule?	❒ Yes	❒ No
9.	Has this employee ever received a previous oral and/or written warning for violation of this rule or order?	❒ Yes	❒ No
10.	Has this employee ever received a final warning for the violation of this or any other published rule or order?	❒ Yes	❒ No
11.	Is there a factual written record showing the steps taken to correct this employee's improper conduct prior to taking this disciplinary action?	❒ Yes	❒ No
12.	Have similar written records been kept and similar steps been taken to correct the improper actions of all other employees?	❒ Yes	❒ No

13. Do divisional records include names of witnesses, dates, times, and other pertinent facts of all past violations including the last one? ❒ Yes ❒ No

14. If the employee had or claimed to have had a disability, were adequate efforts made to accommodate the employee? ❒ Yes ❒ No

Have I Secured the Necessary Facts?

1. Did the employee have an opportunity to tell fully his or her side of the story? ❒ Yes ❒ No
2. Does the person who has the responsibility of maintaining discipline know that it is his or her responsibility and that he or she has the authority to do so? ❒ Yes ❒ No
3. Did I investigate all other sources of information? ❒ Yes ❒ No
4. Did I hold my interviews privately to avoid embarrassing the affected employee or coworkers? ❒ Yes ❒ No
5. Did I make every possible effort to verify the information? ❒ Yes ❒ No
6. Did I check the employee's personnel file to look at his or her past record? ❒ Yes ❒ No

Have I Considered All the Facts in Deciding on the Disciplinary Action?

1. Have I found out what has been done in similar cases in my division? ❒ Yes ❒ No
2. Have I found out what has been done in similar cases in other departments? ❒ Yes ❒ No
3. Have I shown any improper discrimination toward an individual or group, i.e., have I considered factors that are not relevant? ❒ Yes ❒ No
4. Have I allowed personalities to affect my decision? ❒ Yes ❒ No
5. Have I been open-minded concerning the matter? ❒ Yes ❒ No
6. Have I checked this decision with my immediate supervisor?
7. Have I checked this decision with the Office of Human Resources? ❒ Yes ❒ No

Have I Considered All the Value Judgments Involved in the Disciplinary Action?

1. Does the action fit the violation? ❒ Yes ❒ No
2. Will the action prevent a recurrence? ❒ Yes ❒ No

3.	Will the action maintain morale?	❒ Yes	❒ No
4.	Will the action encourage the employee's initiative?	❒ Yes	❒ No
5.	Will the action create a desire on the part of the employee to do what is right?	❒ Yes	❒ No

Am I Administering the Corrective Action in the Proper Manner?

1.	Did I consider whether the corrective action should be done individually or collectively?	❒ Yes	❒ No
2.	Am I prepared to explain to the employee why the action is necessary?	❒ Yes	❒ No
	—The effect of the violation on the institution, fellow coworkers, and himself or herself.	❒ Yes	❒ No
	—To help the employee improve his or her efficiency and also that of the division.	❒ Yes	❒ No
3.	Am I prepared to tell the employee how he or she can prevent a similar offense in the future?	❒ Yes	❒ No
4.	Am I prepared to deal with any resentment that the employee might show?	❒ Yes	❒ No
5.	Have I prepared a written record (such as the "Written Warning Documentation" in Appendix B) to be signed by the employee?	❒ Yes	❒ No

Changing Bad Practices

Occasionally supervisors need to change a bad practice or enforce a rule that has not been applied consistently to everyone. If this step becomes necessary, supervisors should obtain the oral and written support of their division head and ensure that the rules will be applied consistently within the appropriate area. A written notification using the following guidelines will inform employees of the intention to enforce rules in the future.

1. Use employee bulletin boards or individual employee mailings where bulletin boards are not used.
2. Date the memo and give the effective date that the rule will be enforced. Two "work weeks" is about right for the effective date.
3. State the rule and the disciplinary actions that will be taken if the rule is violated.
4. Quote the *entire* rule of disciplinary actions.
5. Introduce the memo with language such as, "There has been some misunderstanding and misinterpretation concerning rule ("—"). This confusion has now been resolved so that uniform application will occur, effective (date)."
6. Follow up to make sure the rule is, in fact, being enforced fairly, effectively, and consistently.
7. Send a copy of the rule to the Office of Human Resources.

SECTION VI

THE PROGRESSIVE DISCIPLINE PROCESS

Many institutions formally commit to supporting the concept and use of progressive discipline. Progressive discipline is the application of discipline in a series of steps that gradually increase in severity as the employee progresses through the steps. The number of steps may vary, each step may be repeated along the way, and steps may be skipped, depending on the situation involved. This methodology requires the supervisor to consider the *seriousness* of the offense and the *previous record* of the employee. An employee's past record does not have to include a prior offense of the same rule to be issued a more severe warning. A combination of *several* different minor offenses that happen within a few weeks may warrant a more severe disciplinary action than would be given for only *one* minor infraction.

The amount of time that elapses between infractions also should be considered. Two infractions followed by an extended period of time with no infractions may indicate a change in behavior. A minor infraction that occurs after an extended period of time probably would *not* warrant a severe disciplinary action. Consideration may be given to the removal of the written warning form from the official human resources file after an appropriate amount of time (e.g., five years) depending on the institution's agreement with employees.

The progressive discipline process includes provisions for:

1. ***Oral warnings***—This step normally is used for the first minor infraction.
2. ***Written warnings***—A written warning normally is used for: a *repeat* of a *minor* infraction for which the employee *previously* has been orally warned; or several *minor infractions* that occur within a short time preceded by a minor infraction for which the employee previously has been orally warned; or the first incident of a major infraction.
3. ***Suspensions***—Employees may be suspended with or without pay (generally for 1 to 30 calendar days). Suspensions normally are used for: recurrences of *habitual minor* infractions or *several major* infractions preceded by an infraction for which the employee recently has received oral and/or written warnings; or the *first* act representing a *gross, serious, or significant* violation, without the prior benefit of either an oral or written warning.
4. ***Terminations***—Employees may be terminated from employment in the following cases: no improvement in job performance or work habits is

shown within a reasonable length of time after the supervisor has properly trained and *appropriately* disciplined the employee (by use of oral and written warnings); or a *repeat* of *serious or significant* violations for which the employee recently has been suspended; or the first *serious or significant* violation that involves college or university rules and regulations, willful misconduct, dishonesty, or endangerment of life or property (no previous oral or written warning is necessary).

All institutions should ensure that an opportunity to appeal at each stage of the progressive discipline process is made available to employees. In areas with collective bargaining agreements, the appeal might be through the use of the formal grievance process. In noncollective bargaining environments, the appeal might be an opportunity to discuss the situation with human resources. Every institution should develop a process that is tailored to its unique campus culture.

SECTION VII

Taking Disciplinary Action

Even though supervisors carry out their day-to-day responsibilities successfully, disciplinary action still may be necessary. When employees do not meet expectations, it is up to the supervisor to take the appropriate disciplinary action. Discipline is a way to help solve a problem—for the supervisor as well as the employee.

Discipline is most effective when it is applied in graduated steps. The severity of discipline increases as employees progress through the steps. In this fashion, employees are given ample opportunity and coaching on how to turn around poor performance or improper behavior. Progressive discipline enables supervisors to retain valuable employees and help them reach their potential as productive workers.

> Of course, in some cases [supervisors] will find it necessary to skip steps along the way or proceed directly to a severe disciplinary measure because of the seriousness of a particular infraction.
>
> The point to remember is this: Employees must be warned of any possible consequences they face from specific misbehavior or poor performance. The first rule of effective discipline is fair warning. Post signs, review important rules (and the reasons behind those rules) during divisional meetings. Do whatever it takes to make sure employees are aware of work rules and performance standards and know the consequences of failing to live up to them.
>
> Progressive discipline should be used as a positive tool to improve employee performance and improper behavior. In so doing, supervisors reap the benefits of lower turnover and improved productivity.[3]

The progressive discipline process provides supervisors with varying degrees and stages of disciplinary action. The stages range from what should be a straightforward, nonthreatening, problem-identification, problem-solving approach during the first oral warning up to a possible threatening, problem-elimination approach in the final written termination stage. It is important to understand that different kinds of communication should be used in the different stages of discipline. This section attempts to identify a set of procedures and steps appropriate for each of the different discipline stages.

The following fundamentals will help supervisors retain a professional perspective of the overall discipline process, the violator, and the problems he or she causes.[4]

1. ***Expect good results***. A positive attitude from the supervisor will increase the likelihood of positive results.
2. ***Everyone can benefit from the experience***. The discipline process can help the employee, his or her coworkers, the division, the college or university, and the supervisor.
3. ***A sincere, caring, problem-solving approach may be all that is needed, initially***. Early "heavy-handed" discipline may only aggravate the problem; a threatening climate may escalate emotions; and other employees may feel uncomfortable with heavy discipline of the employee.
4. ***Waiting is usually a mistake for several reasons***. It usually increases feeling of supervisory guilt for not dealing with it. Waiting also can become emotionally explosive; lead to a lack of supervisory objectivity; and result in the problem worsening.
5. ***A supervisor's positive actions contribute to increased effectiveness by the violator and by the violator's coworkers.***

The Oral Warning Stage

This stage is usually the first step in the disciplinary process. At this stage, the supervisor attempts to:

- point out the seriousness of the problem at hand;
- confirm actions that the employee needs to take to correct his or her behavior and avoid more serious disciplinary action;
- identify the consequences of further work violations or performance inadequacies.

Objectives

The discussion should achieve the following objectives:

- develop a sincere, candid, and frank two-way discussion about the employee's unacceptable behavior;
- describe the inappropriate behavior, explain why it was inappropriate, and point out the seriousness of the problem;
- discuss factors that interfered with the attainment of acceptable performance;
- discuss strategies to eliminate or reduce factors that may hinder future appropriate performance;
- outline a plan of action to reach acceptable performance;
- identify the consequences of uncorrected behavior.

Guidelines

The best way to handle a disciplinary situation is to take a positive approach and deal directly with the problem. The overall objective of the disciplinary discussion is to help the employee solve the problem. Disciplinary interviews are often difficult because they potentially can be unpleasant. However, they are a necessary part of the supervisor's job. There are two important thoughts to remember about discipline. (1) No matter how much a supervisor may dread the discussion, it will not get any easier

with postponement. (2) The discussion is rarely as bad as expected.

Several guidelines and procedures can be followed that will help make the discussion easier and more effective. A disciplinary discussion should follow promptly the action for which the employee is to be disciplined. This immediacy aspect of the disciplinary discussion limits the extent to which the supervisor can be *totally* prepared. However, the supervisor should have all the available facts and a knowledge of related policies and procedures before beginning the discussion and should be able to discuss the situation with the employee without becoming emotional. Employees should be notified that they have the right to have a witness or representative with them during the meeting.

Complete an oral warning form prior to the meeting. Procedures vary depending on the needs of the institution. At some schools, the form is retained in the divisional office, and is not placed in the official personnel file; in others, all documentation is placed in the official personnel file. Similarly, consideration is given to the removal of the oral warning form from the departmental file after a specific period of time (e.g., one year); at other institutions, the documentation is retained permanently.

Establish a positive, problem-solving climate for the discussion. Hold the discussion in private, away from other employees. Listen and give undivided attention to the employee. Avoid interruptions during the discussion.

Begin the interview on a supportive note. Do not begin with accusations and interrogations. Try to establish a sincere and concerned problem-solving attitude. Stress the desire for two-way communication. Let the employee know the purpose for the interview: it is necessary to take disciplinary action due to whatever the violation may be. Tell what behavior was unacceptable, why it was unacceptable, and what is expected in the future.

Obtain the employee's view of the situation. Find out any additional information that may be related to the problem and the employee's view of why it happened. Actively listen to what the employee has to say. Gather all available facts.

Review what behavior is expected and why it is important. Try to help the employee understand how his or her behavior affects the total division. Emphasize *why* it is important for the employee to follow the rules and meet expectations. Deal with the specific problems rather than personalities. Answer any questions that the employee may have and make sure that the employee understands what is expected.

Develop any additional solutions to the problem that may be feasible. Be sure to indicate any supervisory assistance that can be provided. Additional suggestions for improvement also should be solicited from the employee. Be sure the employee understands the consequences if his or her behavior does not improve.

End the discussion on a positive note of expectations for better performance. Review the solutions discussed and set a time for behavior to be reviewed (approximately two weeks). Do not let the discussion drag on too long. After the problem has been discussed, end the conversation positively—show enthusiasm for the employee's strengths and emphasize confidence in the employee.

Planning the Oral Warning

1. What is the primary purpose of this discussion?
2. Specifically, what results do I want to obtain from this discussion?
3. What data or material do I need to gather or review to have relevant information?
4. What can I tell the employee about the discussion that will help him or her to understand the seriousness of the problem?

5. How would I rate my own supervisory performance in areas in which I have had an effect on the employee's poor performance?
6. In what way have (expectations/performance standards/goals/targets) not been met? Be specific.
7. What strengths have I otherwise observed in the employee and what achievements have been made previously by the employee?
8. What areas of specific performance do I feel the employee could improve on and what can be done to help the employee improve?
9. What objective data do I have to support my evaluations of this employee's job performance?
10. What past disciplinary action, if any, has this employee had?
11. How long has the employee been in this position?
12. What types of discussion might be required in a follow-up meeting with this employee and/or other affected individuals?
13. What kinds of future problems and/or situations should be discussed, if any, regarding this employee's expected performance?

Follow-up guidelines

Disciplinary action does not end once the supervisor has completed the oral warning discussion with the employee. It is necessary to continue to review and keep records of both the employee's progression toward improvement as well as any digression from improvement. Again, according to institutional policy, this follow-up documentation should be maintained in either the divisional or the official personnel file. This information also should be addressed in the employee's annual performance appraisal. Give the employee a chance to improve—it is not always possible to change behavior overnight. Any indication of improved behavior should be reinforced in a timely manner with praise and recognition. Emphasize the specific behavior expected and reinforce the chances of continued improvement by providing encouragement and expressing confidence in the employee's ability to improve.

If improvement has not been made after a reasonable period of time, check with the employee to see if there is anything else that can be done to help the employee improve. Review the expected behaviors and continue to monitor progress regularly.

If satisfactory improvement has not been made within the allowed period of time and/or the employee commits another infraction, the next disciplinary step should be considered and taken. Do not let a small problem escalate or intensify. The supervisor has the responsibility to apply the action that he or she identified earlier as a consequence if the problem was not corrected. The following checklist may help to determine if a supervisor has followed up appropriately on disciplinary action.

Have I Made the Necessary Follow-Up?

1. Has the disciplinary action had a positive effect on the employee's overall performance and work habits? ❒ Yes ❒ No
2. Have I done everything possible to overcome or avoid any personal resentment? ❒ Yes ❒ No

3.	Has the employee accepted the fact that the disciplinary action was necessary, appropriate, and in the employee's—as well as everyone else's—best interest?	❒ Yes	❒ No
4.	Have I provided regular and timely feedback to the employee about performance progress?	❒ Yes	❒ No
5.	Has the action had positive effects on coworkers and the division as a whole?	❒ Yes	❒ No
6.	Have I kept accurate records of the employee's progress and my discussions with him or her?	❒ Yes	❒ No
7.	Have I recognized and praised any noticeable improvement?	❒ Yes	❒ No
8.	Have I provided immediate feedback when negative behavior or performance has occurred?	❒ Yes	❒ No
9.	Have I emphasized specific expected behavior and expressed confidence in the employee's ability to improve?	❒ Yes	❒ No
10.	Have I checked to determine if anything else can be done to help the employee improve?	❒ Yes	❒ No
11.	Have I provided a reasonable period of time for the employee to improve?	❒ Yes	❒ No
12.	Am I satisfied that the employee has corrected the discipline behavior?	❒ Yes	❒ No
13.	Is it necessary to take further disciplinary steps according to the seriousness of the problem and situation?	❒ Yes	❒ No

The Written Warning Stage

Normally, this disciplinary stage follows an oral warning (unless a more severe violation has occurred, in which case no oral warning is necessary). The written warning provides official written documentation of the earlier oral warning. It further verifies the seriousness of the problem, updates the actions that need to be taken by the employee within a specific period of time, and specifies the consequences of failure to correct the problem or perform satisfactorily thereafter.

The written warning should make reference to any earlier disciplinary actions taken and the specific details related to the infraction. It also should document the status of the employee's progress (or lack of) toward improvement and spell out what future behavior is expected of the employee. Ultimately, it documents any further disciplinary actions that may be necessary and what future consequences will occur if the problem is not resolved within a specified period of time.

Procedural considerations

Copies of the written warning should go:

- to the employee when the disciplinary action is taken;
- in the employee's divisional personnel file;
- to the Office of Human Resources.

Completing a written warning form

The written warning form should be specific, to the point, clear, concise, nonpunitive, constructive, and factual (Please see Appendix B, "Written Warning Documentation," as an example). As stated previously, depending on the institutional policy, the written warning form may be removed from the official personnel file after a specific period of time (e.g., five years), while at other institutions, the documentation may be retained permanently.

Personally handing the form to the employee during a private conference is the most desirable way to inform the employee of the written warning, for several reasons:

- it provides proof that the employee received the warning;
- it provides a face-to-face opportunity for the employee to understand the seriousness of the problem;
- it enables both the supervisor and the employee to discuss further the contents of the letter and clarify its meaning.

Critical steps

The following guidelines will help ensure that the form has been appropriately completed:

1. State the specific reason of the written warning:
—to confirm the status of an earlier oral warning
—to take official disciplinary action
2. Specify the action that is being taken:
—"...A copy of this form will be placed in your personnel file and considered an official written disciplinary warning that your actions are unacceptable and should be corrected..."
—"...(Any further related actions affecting the employee)..."
3. Cite the specific nature of the infraction:
—substandard job performance
—tardiness
—unauthorized absence
—abuse of sick leave
—rule violation
4. Quote rules (if applicable) that have been violated:
—indicate source of rules
—confirm employee's foreknowledge of the rule
—identify problems that occur when rules are not followed
—stress importance of rule
5. Review facts concerning the employee's progress since the oral warning:
—state positive progress as well as neutral or negative progress
—give specific examples (positive and negative) of the employee's performance or work habits related to the infraction
—provide a "status report" on the employee's current behavior related to the infraction
6. Refer to any prior warnings, corrections, or discussions with the employee about disciplinary matters within the last 12 months:
—clearly indicate dates, times, and facts
7. Be explicit as to what behavior is expected in the future:
—clearly state relevant rules, policies, or performance standards
8. Indicate clearly the time period in which the employee must improve;

9. Specify what will happen to the employee if the problem is not resolved within the time specified:
—"...Subject to further disciplinary action, including suspension and/or termination of employment..."

Do's and don'ts in writing warnings

- Do use easily understood language;
- Do emphasize what the employee should do, not what he or she should not do;
- Do emphasize the seriousness of the problem;
- Do encourage the employee to discuss the matter and the program for improvement;
- Do avoid irrelevant facts and unsubstantiated opinions;
- Don't threaten the employee—simply state how the employee's behavior or performance has failed, the expected performance, and future consequences;
- Don't overstate the case. Include only proven facts;
- Don't use coercion such as "we'll notify so-and-so."

Examples of the oral and written warning forms are provided in Appendix A, "Oral Warning Documentation," and Appendix B, "Written Warning Documentation."

Follow-up meetings

When the written warning is issued initially to an employee, the supervisor must state a date by which improvement must occur. On that date, the supervisor should conduct a follow-up meeting with the employee to evaluate the employee's progress.

If the employee's performance is meeting expectations, then the supervisor should reinforce that behavior. If the employee has made progress, but has not satisfactorily met the expectations, an extension of the improvement date may be granted. If no progress has occurred, the supervisor must take further disciplinary action. This follow-up documentation should be maintained in the official personnel file. This information also should be addressed in the employee's annual performance appraisal.

Handling Suspensions

Suspensions may be used appropriately for any one of several disciplinary stages, ranging from the first stage (when gross, serious, or significant violations occur) to the second or third stage (when minor or major infractions have continued habitually through the oral and/or written warning stages).

A suspension is a period of leave with or without pay, generally from 1 to 30 calendar days, depending on the seriousness of the infraction and the individual situation. The Office of Human Resources should be consulted whenever handling suspensions.

Supervisors are required to review disciplinary actions of this nature with the division head, other appropriate administrators, and the Director of Human Resources within the designated time frame (e.g., one working day).

The written notification

A supervisor needs to know if the institution grants him or her the authority to suspend or dismiss employees, or if he or she may only notify the employee that the Office of Human Resources or some other authority will receive a proposal for

suspension. Basically, the written notification should follow the same general guidelines provided for completing a written warning. In addition, supervisors should:

1. Identify specific periods of time pertaining to the disciplinary action:
   —commencing on (proposed date)
   —date and time employee will be eligible to return to previous status
2. Identify specific future disciplinary actions that will be taken if the problem is not corrected:
   —specific expectations
   —indicate that failure to correct the problem will subject the employee to further disciplinary action, including termination of employment
3. Advise the employee of appeal procedures;
4. Advise the employee of his or her right to appeal the action through the appropriate grievance procedure.

Appendices C through E are examples of written notification relating to disciplinary actions resulting in a suspension of employment. Such documentation should not be removed from the official personnel file.

Critical steps

The same guidelines pertaining to the written warning stage also generally apply to the written stage of disciplinary actions described previously. Prior to taking disciplinary action at this level, the supervisor should determine if the severity of the disciplinary action seems appropriate considering:

The seriousness of the infraction or infractions
—minor or major?
—effect on others' performance, safety, health, etc.?
—effect on unit, divisional, or institutional operations?
The violator's past conduct
—first, second, or third violation?
—nature of prior violations?
—evidence of satisfactory performance? unsatisfactory performance?
—balance between satisfactory and unsatisfactory performance?
—good faith efforts at improvement?
The lapse of time
—since first violation? second violation? etc.
—between violations?
—between satisfactory periods of performance?
—since satisfactory performance occurred?
Past enforcement
—enforced consistently? equitably?
—appropriately enforced throughout unit? division?
—actions taken against other violators.

Appendix I presents a checklist of factors that arbitrators may review when evaluating the appropriateness of disciplinary actions taken against employees. In the event that an employee should grieve a disciplinary action taken against him or her, the list should offer an idea of factors that may be used when reviewing a case.

Procedural considerations

A written notification of the proposed disciplinary action to be taken and the reasons for the action must be issued to the employee within a reasonable time frame (e.g., one work day) of the time the action is recommended.

Special rules apply to exempt employees (not eligible for overtime). The Fair Labor Standards Act only permits an employer to impose disciplinary deductions from the pay of an exempt employee in two ways: on any basis (for example, by the day) for violations of safety rules of major significance, and for a full work week, regardless of the reason.[5] Contact the Office of Human Resources for additional information regarding specific situations.

Copies of the disciplinary letter must be filed:

- in the employee's divisional personnel file;
- with the Office of Human Resources;
- in the employee's official personnel file.

Handling Terminations

Termination is the final step in progressive discipline since it eliminates the violator from the work environment and, consequently, it also should eliminate the problem. Employees may be terminated from employment for uncorrected infractions following appropriate disciplinary actions in cases of gross, serious, or significant violations.

The written notification

Supervisors must be aware of institutional policies and the extent of supervisory authority. Basically, the written notification should follow guidelines provided for completing a suspension letter. The written letter should:

- specify clearly the proposal that the employee be terminated from employment;
- specify the proposed effective date of termination;
- cite the specific reasons for the termination and the corresponding rules—list specific infractions, violations, and corresponding dates along with the related rule, policy, or expectation;
- cite the employee's awareness of related rules, policies, and expectations—list ways by which the employee was made aware (i.e., "given a copy of," "told about on [date]," "warned about on [date]"), and names of people who provided the employee with an awareness and the respective dates and location when notified;
- advise the employee that he or she will receive a letter from the Office of Human Resources with information regarding appeal procedures.

Appendices F through H are examples of written notification of termination. Such documentation may not be removed from the official personnel file.

Critical steps

Appropriate handling of terminations is primarily dependent on appropriate handling of the matters leading up to the discharge, i.e., supervisory effectiveness to:

- establish and communicate rules and policies;
- orient and train;
- use problem-identification and problem-solving techniques;
- provide feedback;
- coach and counsel;
- follow the disciplinary process.

Even though terminations usually are justified, unless supervisors have performed their day-to-day responsibilities appropriately prior to the termination, this final

disciplinary action possibly could be overturned. When supervisory decisions are overturned, it is often because of a supervisor's ineffectiveness to perform the responsibilities listed earlier *rather than* the reason given for termination. The results of an overturned decision include the perceived reduction of supervisory authority, credibility, and effectiveness. A reversal of a decision increases the probability that the supervisor's future decisions will be questioned, and creates confusion and difficulties for employees and the department.

Conclusion

The objective of discipline is to correct an employee's inappropriate behavior. A supervisor who follows the basic principles of fairness and firmness will, in all likelihood, effectively handle discipline problems and prevent the need for further disciplinary action. Discipline problems generally do not disappear on their own. The supervisor needs to take the appropriate action to correct the behavior. Properly handled discipline can resolve problems and result in an equitable and fair working environment for all employees.

APPENDIX

A

ORAL WARNING DOCUMENTATION

As soon as possible after the supervisor has met with the employee, the supervisor needs to complete this form to document the oral warning that occurred.

Divisional Record

The following facts are a record of the events that have occurred; this is *not* considered a written warning, but strictly documentation that an oral warning has been given. This form should be completed by the employee's immediate supervisor after the discussion with the employee. It will then be maintained in the division's human resources records. Consideration may be given to the removal of this form from the official human resources file after one year.

Employee: John Doe

Position: Classification

Division: Any Division

Supervisor: Mary Smith

Date of Incident: June 11, 1994

Brief summary of situation or problem: (State all facts, including time, dates, place of action, names of people involved, etc., including when the employee was counseled informally previously, etc.) Yesterday afternoon, John could not be reached for over half an hour, from 2:30 - 3:00. I was notified by his student employee that he was on break and he typically took breaks for 20 - 30 minutes.

When was the supervisor made aware of the situation? Date: June 11, 1994

When did the supervisor investigate the information reported? Date: June 12, 1994

What was the employee's response during that investigation? John said he was not aware of the policy.

Why did the supervisor determine an oral warning was justified? John had been given a handbook, and a memo on May 2 about break times. He knew or should have known about the policy.

When did the supervisor conduct the oral warning? June 12, 1994

What instructions/expectations did the supervisor give to the employee during the oral warning? To take morning and afternoon breaks at scheduled times and not to exceed 15 minutes in length. If workflow prevents his taking breaks on time, notify Mary Smith of the situation.

What was the employee's response to the oral warning? John stated that he understands why we need him to follow this policy and will do so in the future.

Employee was notified that improvement must be shown by July 12, 1994 (no longer than six months from date of incident) and maintained, or further disciplinary action will be taken, specifically a written warning, suspension, and/or termination.

Supervisor's Statement: I certify that it was appropriate to give this employee an oral warning after a thorough investigation of the situation/problem that occurred; that the employee was given an opportunity to provide me with input; and that the employee has not responded to previous warnings.

Supervisor's Signature_____

Date_____

Employee's Statement: I was given an opportunity to provide my supervisor with my input during this process. I was given an opportunity to have a witness or representative with me during the oral warning meeting. I agree that the information on this document is an accurate representation of the facts as they occurred. I understand my supervisor's expectations of me.

Employee's Signature_____

Date_____

cc: Employee

APPENDIX B

WRITTEN WARNING DOCUMENTATION

Official Human Resources Record

As soon as possible after the incident, please complete this form and have the employee read and sign.

The following facts are a record of the events that have occurred; this document is a written warning. An oral warning for the same or similar infraction was given on June 12, 1994. Depending on the severity of the infraction, the oral warning stage may be waived. This form should be completed by the employee's immediate supervisor after the fact-finding discussion with the employee. It will then be maintained in the division's human resources records with a copy sent to the Office of Human Resources. Consideration may be given to the removal of this form from the official human resources file after five years.

Employee: John Doe

Position: Classification

Division: Any Division

Supervisor: July 25, 1994

Date of Incident: July 25, 1994

Brief summary of situation or problem: (State all facts, including time, dates, place of action, names of people involved, etc., including when the employee was counseled informally previously, etc.) John continues to remain on break longer than permitted, causing a hardship on employees and disrupting the office workflow. July 25, he took a 25 minute break from 9:30 - 9:55.

When was the supervisor made aware of the situation? Date: July 25 when trying to locate John.

When did the supervisor investigate the information reported ? Date: July 25 & 26 when John was found in the break room, and talked to coworkers the next day.

What was the employee's response during that investigation? John stated he had lost track of time.

Why did the supervisor determine an written warning was justified? John has been warned and knew the consequence of future violations.

What instructions/expectations did the supervisor give to the employee during the meeting regarding the written warning? I reminded John that I depend on him to do a specific job and excessive break times make this difficult. I told him to make note of the time and be sure he is back at his desk in 15 minutes—not that he is entitled to 15 minutes in the break room.

What was the employee's response to the written warning? John said he'd pay more attention to the time and would be sure to be back at his desk on time.

Employee was notified that improvement must be shown by August 27, 1994 (no longer than six months from date of incident) and maintained, or further disciplinary action will be taken, specifically a written warning, suspension, and/or termination.

Supervisor's Statement: I certify that it was appropriate to give this employee a written warning after a thorough investigation of the situation/problem that occurred; that the employee was given an opportunity to provide me with input; and that the employee has not responded to previous warnings.

Supervisor's Signature_____

Date_____

Employee's Statement: I was given an opportunity to provide my supervisor with my input during this process. I was given an opportunity to have a witness or representative with me during the written warning meeting. I agree that the information on this document is an accurate representation of the facts as they occurred. I understand my supervisor's expectations of me.

Employee's Signature_____

Date_____

cc: Employee

APPENDIX C

Supervisor's Proposed Suspension Letter

TO: John Doe, Employee
FROM: Mary Smith, Supervisor
DATE: September 8, 1994
SUBJECT: Proposed Suspension from Current Position

You have established a history of poor job performance due to your excessive and continued abuse of rest periods/breaks. This behavior is considered a deliberate and willful violation of an institutional policy.

On June 12, 1994, you received an oral warning because of your continued pattern of excessively long breaks. You were told to improve your performance by July 12, 1994, or discipline would occur, including suspension and/or termination.

On July 27, 1994, you received a written warning because you continued to take breaks that exceeded the 15-minute length permitted to all employees. At that time, I reviewed with you the rules and the reasons why you must adhere to those rules. You were told to improve your performance by August 27, 1994, or you would be subject to further discipline, including suspension and/or termination.

I have warned you about the following infractions that have occurred since July 27, 1994:

August 16: 20 minutes
August 19: 25 minutes
August 23: 20 minutes
August 28: 30 minutes
August 30: 25 minutes

Because of your continued abuse of breaks, I am proposing to the Director of Human Resources and the Appointing Authority that you receive a five-day suspension. This proposed suspension will be from September 19 to 23.

You will receive a letter from the Office of Human Resources informing you of your right to a hearing regarding this proposed suspension, including time and location.

If you take any additional breaks that are longer than the 15-minute limit already explained to you, I will recommend the termination of your employment from your position at this institution.

cc: Director of Human Resources
Appropriate Administrators

APPENDIX D

OFFICE OF HUMAN RESOURCES' PROPOSED SUSPENSION LETTER

September 9, 1994

Mr. John Doe—Certified Letter
Home Address—Return Receipt Requested

Dear Mr. Doe:

The purpose of this letter is to inform you that your supervisor, Mary Smith, has proposed the suspension of your employment as (title) in the Division of (name) at the institution. This proposed suspension without pay is in accordance with (state appropriate regulations and/or policies).

The reason for the proposed suspension is your history of poor job performance due to your excessive and continued abuse of breaks. The proposed effective dates of the suspension of your employment are September 19 to 23. The specific charge is as follows:

"a habitual pattern of failure to report for duty at the assigned time and place or to remain on duty. . ."

Before a final decision is made, you have the opportunity to reply in writing or to appear in person to present your reasons or explanations as to why your suspension should not occur. The intent of this hearing is to determine if this decision to suspend you is in any way arbitrary or capricious. You may have a representative accompany you. This opportunity to reply and/or appeal shall be to the Appointing Authority on Friday, September 12, 1994, at 9:00 a.m. in Plumb Hall, Room 210. Please notify me by noon on Thursday, September 11, if you will attend in person and who will attend with you.

If the suspension is upheld, it will not be implemented prior to Monday, September 19. A written decision on the proposed suspension will be provided to you on or before Friday, September 16, 1994.

Sincerely,

Director of Human Resources

cc: Appeals Board
Appropriate Administrators
Appointing Authority

APPENDIX E

Appointing Authority's Suspension Letter

September 15, 1994

Dear Mr. Doe:

The purpose of this letter is to notify you that I have decided to uphold the suspension without pay of your employment as (title) in the Division of (name) at the institution. This suspension is in accordance with (state appropriate regulations and/or policies).

This suspension will be effective on Monday, September 19 through Friday, September 23. You will be expected to return to work on Monday, September 26.

After meeting with you on Friday, September 12, 1994, evaluating your comments, and examining the state administrative regulations and civil service act, I have decided to uphold the five-day suspension without pay. The reason for your suspension is:

"a habitual pattern of failure to report for duty at the assigned time and place or to remain on duty. . ."

Your history of poor job performance due to your excessive and continued abuse of breaks no longer can be tolerated. Any additional breaks that are longer than the 15-minute limit already explained to you may result in the termination of your employment at the institution.

If you wish to request an appeal hearing from the State Civil Service Board, you must contact (name) in writing within 30 calendar days from the effective date of your suspension.

Sincerely,

Appointing Authority

cc: Appeals Board
Appropriate Administrators
Director of Human Resources

APPENDIX F

SUPERVISOR'S PROPOSED TERMINATION LETTER

TO: John Doe, Employee
FROM: Mary Smith, Supervisor
DATE: November 1, 1994
SUBJECT: Proposed Termination of Employment

You have established a history of poor job performance due to your excessive and continued abuse of breaks. This behavior is considered deliberate and willful violation of institutional policy. Because of this behavior, I am proposing the termination of your employment as (title) at the institution, effective November 7, 1994.

On June 12, 1994, you received an oral warning because of your continued pattern of excessively long breaks. You were told to improve your performance by July 12, 1994, or continued discipline would occur, including suspension and/or termination.

On July 27, 1994, you received a written warning because you continued to take breaks that exceeded the 15-minute length permitted to all employees. At that time, I reviewed the rules and the reasons why you must adhere to them. You were told to improve your performance by August 27, 1994, or you would be subject to further discipline, including suspension and/or termination.

Because of your continued abuse of breaks, you were suspended for five days from September 19 to 23, 1994.

On October 30, 1994, you once again took a 25-minute break that exceeded the permissible length of 15 minutes. Since you have been warned thoroughly regarding the consequences of such continued behavior, and yet again violated this rule yesterday, I now find it necessary to recommend the termination of your employment at the institution to the Director of Human Resources and the Appointing Authority.

You will receive a letter from the Office of Human Resources informing you of your right to a hearing regarding this proposed termination including time and location.

cc: Director of Human Resources
Appropriate Administrators

APPENDIX G

OFFICE OF HUMAN RESOURCES' PROPOSED TERMINATION LETTER

November 2, 1994

Dear Mr. Doe:

The purpose of this letter is to inform you that your supervisor, Mary Smith, has proposed the termination of your employment as (title) in the Division of (name) at the institution. This termination is in accordance with (state appropriate regulations and/or policies). The specific charges are as follows:

"a habitual pattern of failure to report for duty at the assigned time and place or to remain on duty. . ."

Before a final decision is made, you have the opportunity to reply and/or appeal in writing to the Appointing Authority on Monday, November 4, 1994, at 9:00 a.m. in Plumb Hall, Room 210. You have the right to have a representative accompany you. The reason for this hearing is to determine if the decision to terminate your employment is in any way arbitrary or capricious. Please notify me by noon on Friday, November 1, if you will attend in person and who will attend with you.

If the termination is upheld, it will be effective at 5:00 p.m. on Thursday, November 7, 1994.

A written decision will be provided to you on or before Wednesday, November 6, 1994.

Sincerely,

Director of Human Resources

cc: Appeals Board
Appropriate Administrators
Appointing Authority

APPENDIX H

Appointing Authority's Termination Letter

November 6, 1994

Mr. John Doe—Certified Letter
Home Address—Returned Receipt Requested

Dear Mr. Doe:

The purpose of this letter is to inform you that I have decided to uphold the termination of your employment as (title) in the Division of (name) at the institution. This termination will be effective at 5:00 p.m. on Thursday, November 7, 1994. This termination is in accordance with (state appropriate regulations and/or policies).

After meeting with you this morning, evaluating your comments, reviewing your pattern of taking breaks in excess of the 15-minute maximum, and examining the appropriate administrative regulations, I have decided to uphold this termination. The reason for the termination of your employment is your continued abuse of breaks.

You have the right to appeal this decision by requesting a hearing from the Appeals Board. This request must be made in writing to (name) within 30 calendar days after the effective date (tomorrow) of your termination. The intent of this hearing is to determine if this decision to terminate your employment is in any way arbitrary or capricious.

It is your responsibility to contact the Office of Human Resources to make the necessary arrangements concerning your employee benefits. According to the records maintained in the Office of Human Resources, you have seven days of unused annual leave. If you have any questions regarding any of these procedures, that office will be able to assist you.

Sincerely,

Appointing Authority

cc: Appeals Board
Appropriate Administrators
Director of Human Resources

APPENDIX I

Arbitrator's Checklist for Reviewing Appropriateness of Disciplinary Action

The following factors often are considered by arbitrators when discipline-related grievances are heard.

1. What evidence is available that the employee was aware of the rule that he or she has violated?
   - ❒ Was this rule published in writing?
   - ❒ Was it posted conspicuously and properly on bulletin boards customarily used for divisional announcements?
   - ❒ Is the rule stated in clear, concise, and easy-to-understand language?
   - ❒ Did the division make copies of this and other rules available to all employees?
   - ❒ How long has this rule been in effect?
2. Is the rule that was violated a reasonable one?
   - ❒ Does it conform to acceptable public employment and social practices?
   - ❒ Does it appear to be justified for valid economic or safety reasons?
   - ❒ Does it subject employees to any embarrassing social or personal indignities?
   - ❒ Is there any indication that the rule is capricious, arbitrary, or punitive?
3. What evidence is available that the rule has been enforced consistently against all employees in an impartial manner?
   - ❒ Is there any evidence that this employee has been "singled out" for disciplinary purposes?
   - ❒ Is there any evidence that other employees have violated this rule without receiving discipline?
   - ❒ Are factual individual performance records available on all employees?
   - ❒ If appropriate, did this employee receive adequate training compared with that of other employees?
4. What means were used to notify this employee that violation of this rule would result in disciplinary action?
   - ❒ What corrective action was taken by the division prior to disciplinary action?
   - ❒ What evidence is available that the employee received a formal warning prior to discharge?
   - ❒ Does the institution's past practice show a consistent record for discharge following a "final warning"?
5. Was the decision based on facts?
   - ❒ What is the employee's past record?
   - ❒ Based on the employee's past record and his or her length of service, does the disciplinary action seem appropriate for the situation?
   - ❒ What has been the division's "past practice" in this type of rule violation?
   - ❒ What actual damage resulted to the division from this violation?
   - ❒ What damage could result if this type of violation continued?
   - ❒ What factual and documentary evidence support the division's case and actions?

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APPENDIX J

Progressive Discipline Policy

The following pages list infractions and subsequent disciplinary actions. The list provides guidelines to use when determining appropriate disciplinary actions for various types of violations.

When there is reason to believe that an employee may be guilty of an act of a severe nature, including, but not limited to, theft or mishandling of department funds, and it is determined by the supervisor that it would be in the best interest of all concerned to remove the employee from the premises, the employee may be suspended immediately pending the outcome of an internal investigation. An employee may, however, be discharged summarily (in cases of gross violation of rules, willful misconduct, dishonesty, or endangerment of life or property), without the benefit of prior disciplinary actions. The appropriate institutional designee may take more severe or less severe disciplinary action than the preceding, including dismissal, if, in the designee's sole judgment, different disciplinary action is appropriate.

This list is not necessarily all-inclusive or absolute. All disciplinary action must be in accordance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), and all institutional policies.

Offense or Job Deficiency	***First Offense***	***Second Offense***	***Third Offense***	***Fourth Offense***
Unauthorized leave (leave requested by employee but denied by supervisor)	Written reprimand to suspension	Suspension to dismissal	Dismissal	
Failure to report for work and not notifying supervisor for up to two work days	Written reprimand to suspension	Suspension to dismissal	Dismissal	
Failure to obtain or maintain a license or certificate required as a condition of employment	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Failure to report to work and not notifying supervisor for three work days or more	*It may be assumed the employee has "Quit Without Notice." Prior to dismissal, the employee should be given an opportunity to show extraordinary family or medical circumstances that made notice impractical.*			
Habitual tardiness or failure to observe assigned work hours	Oral reprimand	Written reprimand	Suspension	Dismissal
Excessive use of sick leave	Oral reprimand	Written reprimand	Suspension	Dismissal
	Leave for people protected under the FMLA, ADA, or institutional policy cannot be considered.			
Abuse of sick leave (use of sick leave without medical documentation or for nonmedical reasons, except as permitted by institutional policy)	May require doctor's statement	Written reprimand to suspension	Suspension to dismissal	Dismissal
Excessive absenteeism (leave without pay or docked time that is in excess of protected leave)	Oral reprimand	Written reprimand	Suspension	Dismissal
Substandard quality of work	*Guidelines established by the Performance Appraisal System*			
Leaving work station without authorization	Oral reprimand to written reprimand	Written reprimand to suspension	Suspension to dismissal	Dismissal
Reporting to work under the influence of alcohol	Suspension to dismissal	Dismissal		
	(Action must be in accord with any employee drug and alcohol policy)			

Offense or Job Deficiency	***First Offense***	***Second Offense***	***Third Offense***	***Fourth Offense***
Drinking alcoholic beverages on the job	Suspension to dismissal	Dismissal		
	(Action must be in accord with any employee drug and alcohol policy)			
Reporting to work under the influence of illegal drugs	Suspension to dismissal	Dismissal		
	(Action must be in accord with any employee drug and alcohol policy)			
Violation of any employee drug and alcohol policy (other than previously listed)	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Possession of or using illegal drugs on the job or at an institution-sponsored activity	Dismissal			
Possession of illegal drugs with the intent to distribute on or off the job	Dismissal			
Insubordination	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Falsification of records	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Stealing on the job	Dismissal			
Carelessness or negligence that results in personal injury or damage to property	Written reprimand to suspension	Suspension to dismissal	Dismissal	
Willful violation of written rules, regulations, or policies	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
All forms of illegal harassment (contact the Office of Human Resources)	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Unauthorized use of state equipment or property	Written reprimand to suspension	Suspension to dismissal	Dismissal	
Working on personal job during work hours	Written reprimand to suspension	Suspension to dismissal	Dismissal	

Offense or Job Deficiency	*First Offense*	*Second Offense*	*Third Offense*	*Fourth Offense*
Mishandling of department funds or documents	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Excessive use of telephone for personal matters	Oral reprimand	Written reprimand	Suspension	Dismissal
Engaging in unlawful work stoppages, slowdowns, or strikes	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Negligent or willful destruction or misuse of property or equipment	Written reprimand	Suspension to dismissal	Dismissal	
Unauthorized solicitation or sales on state premises	Oral reprimand	Written reprimand	Suspension	Dismissal
Unauthorized release of confidential information	Oral reprimand to written reprimand	Written reprimand to suspension	Suspension to dismissal	Dismissal
Unauthorized possession of firearms on the job	Dismissal			
Unauthorized distribution of written or printed material of any kind	Oral reprimand to written reprimand	Written reprimand to suspension	Suspension to dismissal	Dismissal
Sleeping while on duty (not applicable to those on 24-hour work schedule)	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Horseplay	Oral reprimand	Written reprimand	Suspension	Dismissal
Malicious use of profane or abusive language to others	Oral reprimand to dismissal	Written reprimand to dismissal	Suspension to dismissal	Dismissal
Unauthorized political activity	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Failure to maintain satisfactory working relations with employees, students, and the public	Oral reprimand to dismissal	Written reprimand to dismissal	Suspension to dismissal	Dismissal

Offense or Job Deficiency	***First Offense***	***Second Offense***	***Third Offense***	***Fourth Offense***
Interference with other employee's work	Oral reprimand to written reprimand	Written reprimand to suspension	Suspension to dismissal	Dismissal
Gambling during work hours	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Fighting, other than reasonable defense to an unprovoked attack	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Unauthorized use of state equipment or property for personal gain	Suspension to dismissal	Dismissal		
Negligent operation of a state vehicle resulting in an accident or personal injury or endangering the lives or property of others	Oral reprimand to suspension	Written reprimand to dismissal	Suspension to dismissal	Dismissal
Operation of state vehicle or equipment without required valid license	Dismissal			
Violation of state or federal ethics laws	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Arrested or indicted for alleged violation of federal or state criminal laws	*When an employee is arrested for any offense other than a minor traffic offense, the supervisor immediately should conduct an investigation to determine if any of the offenses or job deficiencies listed in these guidelines have occurred. Should the supervisor deem it necessary, the employee may be suspended immediately pending further investigation. An employee who is placed on leave of absence due to arrest or who is suspended as a result of the filing of an indictment may be terminated before disposition of such charge(s) notwithstanding that (1) the charge is ultimately dismissed or dropped or (2) the employee is acquitted, if there is sufficient proof of the underlying offense and the institutional policies provide for dismissal for serious conduct, even if it is not job related.*			
Conviction of federal or state criminal laws other than minor traffic offenses	Written reprimand to dismissal	Suspension to dismissal	Dismissal	

Offense or Job Deficiency	***First Offense***	***Second Offense***	***Third Offense***	***Fourth Offense***
Refusal to cooperate with administrative investigations or to answer a work-related question or inquiry	Dismissal			
Conduct reflecting unfavorably on the reputation of the institution or conduct that adversely affects or interferes with the normal operations of the institution	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Gross misconduct or conduct unbecoming an institution employee that substantially affects the employee's fitness to perform assigned duties	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Conduct such that the employee's presence on the job could or would threaten the safety or health of the employee or others or such that the employee's fitness to perform assigned duties is affected	Written reprimand to dismissal	Suspension to dismissal	Dismissal	
Any accumulation of three offenses where the first offense calls for an oral or written reprimand within a period of one year	Suspension to dismissal	Dismissal		
Any accumulation of three offenses where the first or second offense calls for suspension within a period of one year	Dismissal			

Notes

1. Ferdinand Fournies. 1978. *Coaching for Improved Work Performance.* New York: Van Nostrand Reinhold Co.
2. Smith, Terry L. 1981. "Coaching the Troubled Employee." *Supervisory Management*, 26 (12), p. 36.
3. Bureau of Business Practice, Inc. 1990. *Progressive Discipline: A Step by Step Guide for the Supervisor.*
4. Chapman, Elwood N. 1982. *Supervisor's Survival Kit: Your First Step Into Management, 6th Ed.* New York: Macmillan Publishing Co.
5. The Fair Labor Standards Act (FLSA) has established specific and technical criteria regarding the types of positions that may be exempted from its provisions. Specific information regarding disciplinary suspensions may be found in the *Fair Labor Standards Handbook*, Issue No. 107, August 1994.

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